

**IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF PENNSYLVANIA**

RHONIE L. BURNS,	:	
	:	
Plaintiff,	:	
	:	CIVIL ACTION
v.	:	
DAIMLERCHRYSLER CORPORATION,	:	NO. 05-cv-2
	:	
Defendant and Third-Party Plaintiff	:	Hon. Sean J. McLaughlin
v.	:	
JAMES DORICH,	:	
Third-Party Defendant	:	

**THIRD-PARTY COMPLAINT OF DEFENDANT,
DAIMLERCHRYSLER CORPORATION, AGAINST JAMES DORICH**

DaimlerChrysler Corporation, defendant and third-party plaintiff, by and through their attorneys, Marshall, Dennehey, Warner, Coleman & Goggin, asserts this Third-Party Complaint against third-party defendant, James Dorich, and alleges as follows:

1. Plaintiffs, Rhonie L. Burns, Vincent D. Silvaggi, Jr. and Nicholas D. Burns filed a Complaint naming DaimlerChrysler Corporation as a defendant, a true and correct copy of plaintiffs' Complaint is attached hereto and incorporated herein as Exhibit "A".

2. The matter was originally filed in the Court of Common Pleas of Erie County, Pennsylvania but was subsequently removed to the United States District Court for the Western District of Pennsylvania, where the matter is currently pending.

3. This Court has jurisdiction over the plaintiffs' Complaint pursuant to 28 U.S.C. § 1332, since this is an action between citizens of different states and involves an amount in controversy in excess of the jurisdictional amount.

4. This Court has jurisdiction over this Third-Party Complaint pursuant to 28 U.S.C. § 1367, since the claims asserted in the Third-Party Complaint were so related to the claims in the action within such original jurisdiction that they form a part of the same case or controversy under Article III of the United States Constitution.

5. The third-party defendant, James Dorich, is an individual residing at 2796 Willowood Drive, Apartment 22, Erie, PA 16506.

6. Plaintiffs have alleged that minor plaintiff was a passenger in the rear seat of a 1997 Chrysler Concorde being operated by Rhonie Burns on May 24, 2002. While the Burns' vehicle was stopped at a traffic light, it was struck from behind by another vehicle traveling at a high rate of speed.

7. According to plaintiffs' Complaint, minor plaintiff sustained injuries when the impact catapulted the minor plaintiff's car seat to the front of the car causing a severe neck injury resulting in quadriplegia.

8. Plaintiffs contend the restraint system of the vehicle was defective, causing enhanced injuries to Nicholas Burns, for which they claim DaimlerChrysler Corporation is responsible.

9. The vehicle impacting the 1997 Chrysler Concorde was operated by James Dorich.

10. Defendant and third-party plaintiff, DaimlerChrysler Corporation denies that it was negligent in any manner whatsoever or that its product was defective in any manner whatsoever at the time it left its custody and control.

11. The accident and the injuries which form the basis of plaintiffs' Complaint and which allegedly caused plaintiff's injury were caused solely by reason of the negligence of third-party defendant, James Dorich, in the operation of his automobile prior to and at the time of the accident and not by any defect of the vehicle's condition at the time it left DaimlerChrysler Corporation's custody and control.

12. Immediately prior to and at the time of the alleged incident in the attached Complaint, third-party defendant, James Dorich was operating the aforesaid automobile in a reckless, careless and negligent manner by his:

- a. traveling at an excessive speed estimated somewhere between 69 and 90 mph in a 35 mph speed zone;
- b. failure to keep his automobile under proper control;
- c. failure to operate his vehicle appropriately under the roadway conditions in existence at the time of the incident;
- d. failure to observe established rules of the road and the statutes of the Commonwealth of Pennsylvania with respect to the operation of motor vehicles;
- e. operating, driving his vehicle in the manner which disregarded the rights and/or safety of others, including plaintiffs;
- f. carelessly, negligently and recklessly traveling at an excessive speed in a manner which disregarded the rights and/or safety of others in an attempt to flee a prior accident scene; and

g. such other negligence determined during the course of discovery.

13 A jury convicted James Dorich of five (5) counts of reckless endangerment and numerous traffic violations in conjunction with the May 24, 2002 accident.

14. James Dorich is responsible and liable to plaintiffs for all damages and injuries to plaintiffs as a result of the May 24, 2002 accident.

15. DaimlerChrysler Corporation is alleged to be responsible only for any enhanced damages or injuries suffered as a result of the alleged defects in its vehicle, which it denies.

16. In the event that plaintiffs receive any verdict, judgment or award against DaimlerChrysler Corporation as defendant for their injuries allegedly caused by DaimlerChrysler Corporation, liability for which is denied, the defendant and third-party plaintiff, DaimlerChrysler Corporation will be entitled to judgment against the third-party defendant, James Dorich, for contribution as a result of Dorich's responsibility for causing the accident.

17. Plaintiffs and James Dorich have entered into a release, a copy of which is attached as Exhibit "B", the terms of which reduce claims against DaimlerChrysler Corporation for any damages allegedly caused by DaimlerChrysler Corporation and James Dorich.

18. In the event that plaintiffs receive any verdict, judgment or award against DaimlerChrysler Corporation as defendant for their injuries allegedly caused in the May 24, 2002 accident, DaimlerChrysler Corporation is entitled to the benefit of the release executed between plaintiffs and James Dorich.

WHEREFORE, defendant and third-party plaintiff, DaimlerChrysler Corporation, demands judgment in its favor together with costs.

Respectfully submitted,

**MARSHALL, DENNEHEY, WARNER,
COLEMAN & GOGGIN**

By:



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